No. 07-418

In the Supreme Court of the United States

VASILE VALY ROSCA, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

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QUESTION PRESENTED

Whether the court of appeals correctly determined that the evidence was sufficient to convict petitioner of conspiracy, in violation of 18 U.S.C. 371.

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OPINION BELOW

The decision of the court of appeals (Pet. App. 1a-6a) is not published in the Federal Reporter but is available at 233 Fed. Appx. 605.

JURISDICTION

The judgment of the court of appeals was entered on April 5, 2007. A petition for rehearing was denied on June 26, 2007 (Pet. App. 7a). The petition for a writ of certiorari was filed on September 24, 2007. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

After a jury trial, petitioner was convicted in the United States District Court for the District of Arizona of participating in an international automobile smuggling conspiracy, in violation of 18 U.S.C. 371. He was

sentenced to 24 months of imprisonment. The court of appeals affirmed. Pet. App. 1a-6a.

1. Petitioner was part of a conspiracy, primarily located in Canada and Arizona, involving theft of motor vehicles and fraud. Initially, the conspiracy involved only actual motor vehicles that were stolen or wrongfully obtained from various locations in Canada and the United States. After obtaining such a vehicle, a member of the conspiracy would search for a vehicle that was the same make, model, and year as the stolen vehicle, in order to steal the vehicle identification number (VIN) from that vehicle and use it to create a counterfeit VIN plate or fraudulent Canadian vehicle registration for the stolen vehicle. Members of the conspiracy who were employed by the Arizona Department of Motor Vehicles (DMV) then used the fraudulent registrations of stolen vehicles to create clean Arizona titles for those vehicles. Some of those vehicles were distributed to members of the conspiracy for their personal use. Gov't C.A. Br. 10-12.

Members of the conspiracy also committed insurance fraud by creating titles and registrations for vehicles that never existed, insuring those "paper" vehicles, and then claiming that the vehicles had been stolen in order to collect the insurance proceeds. As with the stolen vehicles, members of the conspiracy used "donor" VINs to create fraudulent registration and title paperwork. Gov't C.A. Br. 11, 14-16.

Petitioner participated in fraud involving two stolen vehicles (a 2000 Harley Davidson motorcycle and a 2001 Volkswagen Jetta) and one "paper" vehicle (a 2002 Lexus LX470). Members of the conspiracy created a fraudulent registration for the Harley Davidson motorcycle in Canada, then gave it to a co-conspirator in the Arizona

DMV, who issued a clean title for the motorcycle and registered it to petitioner. Petitioner took possession of the motorcycle and used it for about two years, until law enforcement officers seized the vehicle. The officers discovered that the motorcycle had a counterfeit VIN; when they asked petitioner about the origins of the motorcycle, he told them he could not remember when or where he purchased it. Gov't C.A. Br. 16-20.

Petitioner obtained the 2001 Volkswagen Jetta in a similar manner. A co-conspirator filed a false police report stating that his girlfriend's Jetta had been stolen and submitted a fraudulent insurance claim. He then gave the vehicle to co-conspirators who obtained fraudulent Canadian registration paperwork for it using a "donor" VIN and used that paperwork to obtain a clean title through a co-conspirator at the Arizona DMV. Petitioner took possession of the vehicle and drove it for two weeks before it was seized by law enforcement officers. When confronted by law enforcement officers, petitioner lied about the origins of the vehicle. Gov't C.A. Br. 20-22.

Finally, petitioner attempted to commit insurance fraud based on a 2002 Lexus LX470 that existed only on paper. Co-conspirators created a fraudulent Canadian registration for a 2002 Lexus LX470 using a "donor" VIN, and a co-conspirator at the Arizona DMV processed title and registration documents for that vehicle. Petitioner had the fictional Lexus insured, and then about a month later, he reported to law enforcement authorities that it had been stolen and reported the loss to his insurance company. When law enforcement officers and insurance company representatives asked petitioner about the origins of this vehicle, petitioner provided two different stories, neither of which could be

corroborated. Petitioner eventually withdrew his insurance claim. Gov't C.A. Br. 23-28.

2. Petitioner was charged in a multi-count, multi-defendant second superseding indictment with conspiracy to commit various fraud, theft, and smuggling offenses, in violation of 18 U.S.C. 371; conspiracy to launder money, in violation of 18 U.S.C. 1956(h); and 52 substantive counts of fraud and theft relating to stolen vehicles. C.A. E.R. 3-61 (Second Superseding Indictment); Gov't C.A. Br. 5. All of petitioner's co-defendants except one pleaded guilty. Gov't C.A. Br. 5-8. Petitioner and his remaining co-defendant proceeded to trial. Before and during trial, the government dismissed all counts against petitioner except the first conspiracy count. *Id.* at 8-10. At the close of the government's evidence, petitioner filed a motion for judgment of acquittal on the conspiracy count, which the district court denied. *Id.* at 9-10.

The district court then provided the jury with extensive instructions on the conspiracy count. It first explained the elements of conspiracy:

> In order for the defendants to be found guilty of the conspiracy charge, the government must prove each of the following elements beyond a reasonable doubt:
>
> First, beginning on or about July 1999, and ending on or about November 2002, there was an agreement between two or more persons to commit at least one crime as charged in Count 1 of the Second Superseding Indictment.
>
> Second, each defendant became a member of the conspiracy knowing of at least one of its objects and intending to help accomplish it.

> And, third, one of the members of the conspiracy performed at least one overt act for the purpose of carrying out the conspiracy, with all of you agreeing on a particular act that you find was committed.

3/29/05 Tr. 143. It then made clear that a defendant need not be involved in every aspect of the conspiracy to be convicted:

> One becomes a member of a conspiracy by willfully participating in the unlawful plan with the intent to advance or further some object or purpose of the conspiracy, even though the person does not have full knowledge of all the details of the conspiracy.
>
> * * * * *
>
> Even though a defendant did not directly conspire with other defendants or other conspirators in the overall scheme, the defendant has, in effect, agreed to participate in the conspiracy if it is proved beyond a reasonable doubt that, one, the defendant directly conspired with one or more conspirators to carry out at least one of the object of the conspiracy; two, the defendant knew or had reason to know that other conspirators were involved with those with whom the defendant directly conspired; and, three, the defendant had reason to believe that whatever benefits the defendant might get from the conspiracy were probably dependent upon the success of the entire venture. It is no defense that a person's participation in a conspiracy was minor or for a short period of time.

Id. at 144, 146. The jury found petitioner guilty, and the district court sentenced him to 24 months of imprisonment. Gov't C.A. Br. 10.

3. The court of appeals affirmed in an unpublished, non-precedential opinion. Pet. App. 1a-6a. On appeal, petitioner conceded that the evidence proved a single, overall conspiracy, but he argued that the evidence was insufficient to show that he joined that conspiracy. *Id.* at 2a; Pet. C.A. Br. 19-27.[1] The court of appeals rejected that argument. Pet. App. 2a-4a. It explained that it "review[s] sufficiency of the evidence challenges to determine whether viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Id.* at 2a (quoting *United States* v. *Herrera-Gonzales*, 263 F.3d 1092, 1095 (9th Cir. 2001), cert. denied, 534 U.S. 1117 (2002)). In this case, those essential elements were that "the overall conspiracy existed" (which petitioner conceded) and that "[petitioner] was connected to the overall conspiracy." *Ibid.*

The court of appeals reviewed the evidence and concluded that the government presented sufficient evidence to connect petitioner to the conspiracy:

> [T]he witness testimony; the recorded interviews with [petitioner]; the insurance application for the "paper" Lexus connected to the conspiracy; the fraudulent purchase order [petitioner] used to support his $68,000 fraudulent insurance claim involving that "paper" Lexus; the fraudulent titles created by co-conspirators for the two stolen vehicles [peti-

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[1] Petitioner also argued that there was an impermissible variance between the indictment and the evidence presented at trial and that the district court erred in refusing to sever petitioner's trial from his co-defendant's trial. Pet. C.A. Br. 28-40. The court of appeals correctly rejected those arguments, Pet. App. 4a-6a, and petitioner does not renew them before this Court.

> tioner] possessed and the "paper" Lexus he insured, all flowing from the conspiracy; as well as other evidence presented at trial offer sufficient support for the district court's conclusion.

Pet. App. 3a. The court of appeals cited settled circuit precedent which explained that "[o]nce the government has established that a conspiracy exists, evidence of only a *slight connection* is necessary to convict a defendant of knowing participation," so long as "each defendant knew or had reason to know of the scope of the conspiracy and that each defendant had reason to believe that [his] own benefits were dependent upon the success of the entire venture." *Ibid.* (brackets in original) (quoting *United States* v. *Brown*, 912 F.2d 1040, 1043 (9th Cir. 1990)). In this case, that meant that the government was not required to show that petitioner "knew all of the co-conspirators or their functions, participated in the conspiracy from its beginning, participated in all its enterprises, knew all its details, or worked with all co-conspirators," so long as it demonstrated petitioner's knowing participation in some portion of the conspiracy. *Ibid.*

ARGUMENT

Petitioner contends (Pet. 5-16) that the court of appeals' decision to uphold his conviction based on a "slight connection" to the charged conspiracy "subverts the requirement of proof beyond a reasonable doubt mandated by the Due Process Clause." As an initial matter, petitioner failed to preserve that claim, and this Court should not address it in the first instance. In any event, petitioner is mistaken, because the court of appeals' standard does require proof beyond a reasonable doubt that a defendant knowingly participated in the

charged conspiracy. Further, there is no conflict in the circuits on this issue, because no court of appeals permits a conviction for conspiracy on anything less than proof beyond a reasonable doubt, and all of the courts use essentially the same standard for explaining the necessary connection between a defendant and the charged conspiracy. Finally, the decision below is unpublished and non-precedential, and petitioner's claim would fail on the merits even under the more stringent standard he advocates. Accordingly, no further review of petitioner's claim is warranted.

1. Petitioner failed to preserve the claim raised in his petition below. On appeal, petitioner's only sufficiency-of-the-evidence challenge was his argument that the evidence that the government presented to connect him to the charged conspiracy was insufficient as a matter of law under Ninth Circuit precedent. Petitioner argued: "[I]t is not sufficient for the government to prove merely that a conspiracy defendant joined in *some* conspiracy. Instead, the government's evidence must show that the defendant participated in the *particular* conspiracy he is charged with having joined." Pet. C.A. Br. 17. Petitioner contended specifically that the evidence failed to show that he "had actual or constructive knowledge of (1) the scope of the *overall* conspiracy, and (2) the fact that his own benefits were dependent upon the success of the entire venture." *Ibid.* (citing *United States* v. *Brown*, 912 F.2d 1040, 1043 (9th Cir. 1990)). Petitioner did not argue, in his opening brief or his reply brief, that the "slight connection" standard violates due process or that the standard itself is otherwise infirm.

Citing *Brown*, the court of appeals rejected petitioner's argument, citing the ample evidence that demonstrated petitioner's knowing connection to the con-

spiracy. Pet. App. 3a. The court of appeals cited circuit precedent containing the "slight connection" standard, but it did not discuss that standard or consider any argument regarding why the standard should be different. *Ibid.*[2]

Petitioner thus failed to preserve his claim that the "slight connection" standard violates due process, and this Court should not consider it in the first instance. See, *e.g.*, *United States* v. *Williams*, 504 U.S. 36, 41 (1992) (Supreme Court ordinarily does not consider questions not pressed or passed upon below).

2. Petitioner's claim (Pet. 15) that the "slight connection" standard "allow[s] convictions based upon a lesser standard than proof of every element of the crime beyond a reasonable doubt" is mistaken. Petitioner confuses the required connection to convict a defendant of conspiracy with the strength of the evidence required to prove that connection. As the Fourth Circuit has explained,

> Requiring that the defendant's connection to the conspiracy be "slight" in no way alleviates the Government's burden of proving the existence of the conspiracy and the defendant's connection to it beyond a reasonable doubt. The term "slight" does not describe the *quantum* of evidence that the Government must elicit in order to establish the conspiracy, but rather the *connection* that the defendant maintains with the conspiracy. Requiring a

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[2] Petitioner filed a petition for panel rehearing, again focusing on the argument that the evidence was insufficient to support his conspiracy conviction under settled Ninth Circuit law. See Pet. C.A. Pet. for Reh'g 7-15. The court of appeals denied the petition for rehearing without opinion. Pet. App. 7a.

> "slight connection" between the defendant and the established conspiracy complements the canons of conspiracy law that a defendant need not know all of his coconspirators, comprehend the reach of the conspiracy, participate in all the enterprises of the conspiracy, or have joined the conspiracy from its inception.

United States v. *Burgos*, 94 F.3d 849, 861 (1996), cert. denied, 519 U.S. 1151 (1997).

The Ninth Circuit similarly has explained that allowing a defendant to be convicted of conspiracy based on a "slight connection" to the activities of the conspiracy does not lessen the government's burden of proving the connection:

> Once the existence of a conspiracy is established, evidence establishing beyond a reasonable doubt a connection of a defendant with the conspiracy, even though the *connection is slight*, is sufficient to convict him with knowing participation in the conspiracy. Thus, the word "slight" properly modifies "connection" and not "evidence." It is tied to that which is proved, not to the type of evidence or the burden of proof.

United States v. *Dunn*, 564 F.2d 348, 357 (1977). Indeed, the Ninth Circuit has expressly rejected the argument petitioner attributes to it, explaining that "the term 'slight connection' in this context *does not mean* that the government's burden of proving a connection is slight." *United States* v. *Esquivel-Ortega*, 484 F.3d 1221, 1228 (2007) (emphasis added).[3]

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[3] See *United States* v. *Anderson*, 189 F.3d 1201, 1207 (10th Cir. 1999) ("A defendant's connection to a conspiracy may be slight, but that slight

Petitioner acknowledges (Pet. 7) the Ninth Circuit's explanation of the difference between the required link to the conspiracy and the quantum of proof required for conviction, but he nonetheless contends that the Ninth Circuit permits a conspiracy conviction based on a "slight connection" to the conspiracy absent any proof of mens rea. Pet. 8 (arguing that the Ninth Circuit's "slight connection" standard "substitutes proof beyond a reasonable doubt of a *slight connection* to the conspiracy for proof beyond a reasonable doubt of a defendant's *knowing participation* in the conspiracy"). The court of appeals, however, did not hold in the decision below or in the cases cited in its decision that proof of a "slight connection" to the conspiracy excuses the government from proving knowing participation in the conspiracy. Instead, it invoked the "slight connection" standard to make clear that a defendant need not be involved in every aspect of the conspiracy to be convicted of conspiracy. Pet. App. 3a. In addition, the court explicitly noted that the government must prove that the defendant "*knew or had reason to know* of the scope of the conspiracy and that [he] had reason to believe that [his] own benefits were dependent upon the success of the entire venture." *Ibid.* (quoting *Brown*, 912 F.2d at 1043 (emphasis added; second set of brackets in original)). Thus, contrary to petitioner's suggestion, the court did not eliminate the mens rea requirement.

3. There is no disagreement in the courts of appeals that warrants this Court's review. Petitioner contends (Pet. 9-11) that the courts of appeals have divided about

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connection must be proven with evidence to establish knowing participation beyond a reasonable doubt." (quoting *United States* v. *Slater*, 971 F.2d 626, 630 (10th Cir. 1992))).

whether "a defendant's knowing participation in a criminal conspiracy must be proven beyond a reasonable doubt." All of the courts of appeals, however, require proof of each element of conspiracy, including mens rea, beyond a reasonable doubt. Although the courts of appeals use slightly different language for articulating the extent to which an individual must participate in the conspiracy to be convicted of conspiracy, the courts' standards are essentially the same, permitting a conviction if the defendant is involved in some—but not necessarily all—aspects of the conspiracy.

First, the courts of appeals have uniformly held that there must be sufficient evidence for a jury to find all elements of conspiracy, including knowing participation, beyond a reasonable doubt to sustain a conviction. See, *e.g.*, *United States* v. *Marsh*, 747 F.2d 7, 13 (1st Cir. 1984) ("Knowledge of the basic 'agreement' * * * is an essential element of the crime charged. It must be proven beyond a reasonable doubt."); *United States* v. *Aleskerova*, 300 F.3d 286, 292 (2d Cir. 2002) (government must prove beyond a reasonable doubt that "the defendant knowingly engaged in the conspiracy with the specific intent to commit the offenses that were the objects of the conspiracy" (internal quotation marks omitted)); *United States* v. *Brodie*, 403 F.3d 123, 134 (3d Cir. 2005) (jury must "find [the defendant] guilty beyond a reasonable doubt" of all elements of conspiracy (brackets in original)); *United States* v. *Wilson*, 484 F.3d 267, 283 (4th Cir. 2007) (government must "prove[] beyond a reasonable doubt that [the defendant] was connected to the existing conspiracy"); *United States* v. *Turner*, 319 F.3d 716, 721 (5th Cir.) (government must prove "knowledge of the conspiracy and intent to join it" beyond a reasonable doubt), cert. denied, 538 U.S. 1017

(2003); *United States* v. *Braggs*, 23 F.3d 1047, 1051 (6th Cir.) (government must provide "sufficient evidence to establish the connection [to the charged conspiracy] beyond a reasonable doubt"), cert. denied, 513 U.S. 902, 513 U.S. 907, and 513 U.S. 933 (1994); *United States* v. *Kellum*, 42 F.3d 1087, 1092 (7th Cir. 1994) (evidence must "establish[] beyond a reasonable doubt that [the defendant] was a knowing participant in the conspiracy"); *United States* v. *Lopez*, 443 F.3d 1026, 1028 (8th Cir. 2006) ("[W]hile a defendant's role in a conspiracy may be minor, the government must offer enough evidence to prove a defendant's connection to a conspiracy beyond a reasonable doubt before a conspiracy conviction can be upheld."); *United States* v. *Zakharov*, 468 F.3d 1171, 1179 (9th Cir. 2006) (government must prove beyond a reasonable doubt that the defendant "had knowledge of the conspiracy and acted in furtherance of it" (internal quotation marks omitted)); *United States* v. *Bowie*, 892 F.2d 1494, 1497 (10th Cir. 1990) ("[T]he defendant's participation in, or connection to, the conspiracy need only be slight, if there is sufficient evidence to establish that connection beyond a reasonable doubt."); *United States* v. *Garcia*, 405 F.3d 1260, 1269 (11th Cir. 2005) ("the government must have proven beyond a reasonable doubt * * * that a conspiracy existed and that the defendant knowingly and voluntarily joined the conspiracy"); *United States* v. *Carson*, 455 F.3d 336, 375 (D.C. Cir. 2006) (trier of fact must find "the essential elements of [conspiracy] beyond a reasonable doubt" (internal quotation marks omitted; brackets in original)).

Petitioner acknowledges that the courts of appeals all "purport to require proof beyond a reasonable doubt of every element of a crime," (Pet. 9), but he argues that

some courts require only "slight evidence" to uphold a conviction, rather than evidence sufficient to permit a rational jury to find guilt beyond a reasonable doubt. Pet. 9-11. This argument again incorrectly conflates the required link to the conspiracy and the quantum of proof required for conviction.

It is true that the courts of appeals have chosen different language to articulate the extent to which a defendant must be involved in a conspiracy to be convicted of a conspiracy offense. The Ninth Circuit, for example, has used the term "slight connection" to explain that the defendant need not have "kn[own] all of the co-conspirators," "participated in the conspiracy from its beginning," or "kn[own] all its details." Pet. 3. The Seventh Circuit uses essentially the same standard, stating that "[s]o long as the evidence demonstrates that the co-conspirators embraced a common criminal objective, a single conspiracy exists, even if the parties do not know one or another and do not participate in every aspect of the scheme." *United States* v. *Jones*, 275 F.3d 648, 652 (2001). Although, as petitioner notes (Pet. 10), the Seventh Circuit has chosen not to use the term "slight connection" so as to avoid any argument that confuses the standard for the required connection to the conspiracy with the burden of proof, see *United States* v. *Durrive*, 902 F.2d 1221, 1227-1228 (1990), the Seventh Circuit's standard does not materially differ from that of any other court of appeals. Indeed, the courts of appeals all agree that a defendant need only be involved in some aspects of a conspiracy to be held responsible for the conspiracy.[4] And this Court held as much in *Salinas* v.

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[4] See, *e.g.*, *United States* v. *Baltas*, 236 F.3d 27, 35-36 (1st Cir.), cert. denied, 532 U.S. 1030 (2001); *United States* v. *Berger*, 224 F.3d 107, 115

United States, 522 U.S. 52 (1997), when it explained that "[o]ne can be a conspirator by agreeing to facilitate only *some* of the acts leading to the substantive offense." *Id.* at 65 (emphasis added). Petitioner asserts (Pet. 9) that "a criminal defendant in one part of the country may be convicted of a violation of the federal criminal statute for conduct that would not constitute a violation if prosecuted in another Circuit," but he points to no cases that would be resolved differently in a different circuit. And there is no reason to expect any divergence, given that the federal circuits all use essentially the same substantive standards.

As explained, all of the courts of appeals require that the government have presented the jury with evidence that, viewed in the light most favorable to the government, establishes every element of conspiracy beyond a reasonable doubt. See pp. 12-13, *supra*. It is true that some courts previously had used the term "slight evidence" to refer to the necessary connection between the defendant and the conspiracy, but those courts have since recognized that the term "slight evidence" confuses the required connection and the burden of proof, and they generally have abandoned that term and used other, new phrases to clarify the required connection and the quantum of proof. Compare, *e.g.*, *United States* v. *Huber*, 772 F.2d 585, 589-590 (9th Cir. 1985) (abandoning "slight evidence" but using "slight connection" to refer to the required connection to the conspiracy), with,

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(2d Cir. 2000); *Brodie*, 403 F.3d at 134; *Burgos*, 94 F.3d at 857-858; *United States* v. *Nelson*, 733 F.2d 364, 369 (5th Cir.), cert. denied, 469 U.S. 937 (1984); *United States* v. *Crayton*, 357 F.3d 560, 573 (6th Cir.), cert. denied, 542 U.S. 910 (2004); *United States* v. *Jenkins*, 78 F.3d 1283, 1288-1289 (8th Cir. 1996); *Bowie*, 892 F.2d at 1497; *United States* v. *Miranda*, 425 F.3d 953, 959 (11th Cir. 2005).

e.g., *United States* v. *Malatesta*, 590 F.2d 1379, 1381-1382 (5th Cir.) (abandoning the term "slight evidence" and using "substantial evidence" to refer to the quantum of proof), cert. denied, 440 U.S. 962 (1979). Moreover, those courts that have decided to use the term "slight connection" to describe a defendant's connection to a conspiracy have taken great pains to make clear that the term does not mean "slight evidence" and does not dilute the burden of proof. See, *e.g.*, *Esquivel-Ortega*, 484 F.3d at 1228; *Burgos*, 94 F.3d at 861; *Marsh*, 747 F.2d at 12-13 & n.3. Because the courts of appeals themselves have been resolving the confusion that the term "slight evidence" caused, and because the differences that remain in the language they use to articulate the required connection between a defendant and a conspiracy are not material, this Court's review is not warranted.[5]

4. In any event, review is unwarranted because resolution of the question petitioner presents would have no impact on the outcome of his case. The jury in this case was not instructed that it could find petitioner guilty based on nothing more than a "slight connection" to the conspiracy. Instead, the district court charged the jury that it could find petitioner guilty only

> if it is proved beyond a reasonable doubt that, one, the defendant directly conspired with one or more conspirators to carry out at least one of the objects of the conspiracy; two, the defendant knew or had

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[5] Petitioner also suggests (Pet. 14) that the Ninth Circuit's "slight connection" standard "circumvent[s] its own conspiracy case law." Petitioner is mistaken, because the "slight connection" standard does not excuse proof of knowing participation in the conspiracy, see p. 11, *supra*, and an intra-circuit conflict would not justify this Court's review in any event. *E.g.*, *Wisniewski* v. *United States*, 353 U.S. 901, 902 (1957) (per curiam).

> reason to know that other conspirators were involved with those with whom the defendant directly conspired; and, three, the defendant had reason to believe that whatever benefits the defendant might get from the conspiracy were probably dependent upon the success of the entire venture.

3/29/05 Tr. 146; see *id.* at 143-144. The jury was thus told that it must find that petitioner knowingly participated in the conspiracy beyond a reasonable doubt, and the jury found petitioner guilty under that standard. On appeal, the court of appeals reviewed the ample evidence that supported the jury's conclusion. Pet. App. 3a. Under any standard, that evidence established a basis for inferring petitioner's general knowledge of the nature of the conspiracy (even if he did not know all of its details) and that his benefits flowed from its overall success. This case thus is not an appropriate vehicle for considering whether the "slight connection" standard dilutes the government's burden of proof, and review should be denied.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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DECEMBER 2007